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Attorney Docket No. 45579 (56876)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT: OSTHER, et al

U.S.S.N.: 10/057,112

Art Unit:

Unassigned

FILED: January 25, 2002

Examiner:

Unassigned

FOR: IN VITRO REPAIR OF BONE AND/OR CARTILAGE DEFECTS

CERTIFICATE OF FIRST CLASS MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service as **first class mail** in an envelope addressed to Assistant Commissioner for Patents, Washington, D.C. 20231 on February 26, 2002.

By: *Judith A. Herrick*
Judith A. Herrick

**INFORMATION DISCLOSURE STATEMENT
(SUBMISSION AFTER FILING OF AN APPLICATION
BUT BEFORE FINAL REJECTION OR NOTICE OF ALLOWANCE)**

Assistant Commissioner for Patents
Washington, D.C. 20231

Date: February 26, 2002

Sir:

Pursuant to 37 C.F.R. §§ 1.97 and 1.98, Applicant(s) hereby submit(s) an Information Disclosure Statement for consideration by the Examiner.

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I. LIST OF PATENTS, PUBLICATIONS OR OTHER INFORMATION

The patents, publications or other information submitted for consideration by the Office are listed on PTO-1449, attached hereto.

II. COPIES

a. X Submitted herewith is a legible copy of (i) each U.S and foreign patent; (ii) each publication or that portion which caused it to be listed; and (iii) all other information or that portion which caused it to be listed.

b. 1 Each of the patents, publications or other information listed on the attached PTO-1449 was previously cited by or submitted to the USPTO in connection with U.S.S.N.: _____, to which the subject application claims the benefit of the earlier filing date. As such, a copy of each is not included herewith pursuant to 37 C.F.R. § 1.97(d).

III. CONCISE EXPLANATION OF THE RELEVANCE
(check at least one box)

- a. X Except as may be indicated below in (b), all of the patents, publications or other information are in the English language or were cited in an English language Search Report, a copy of which is attached hereto (concise explanation not required).
- b. A concise explanation of the relevance of all patents, publications or other information listed that is not in the English language is as follows:
- English translation for reference(s) .
 English abstract for reference(s).
 English translation of search report/official communication.
 PCT Search Report for Reference.
- c. The following additional information is provided for the Examiner's consideration:
- A copy of EPO Search Report.
 A copy of PCT Search Report, dated .
 A copy of Official Communication from the
 Intellectual Property Office.
 English translation of search report/official communication.

FEES

IV. THIS IDS IS BEING FILED UNDER 37 C.F.R. § 1.97(b)
(check one box)

- a. X within three months of the filing date of a national application (37 C.F.R. § 1.97(b) (1)). No fee or certification is required.
- b. within three months of the date of entry of the national stage as set forth in §1.491 in an international application (37 C.F.R. § 1.97(b) (2)). No fee or certification is required.
- c. before the mailing date of a first Action on the merits (37 C.F.R. § 1.97(b) (3)). No fee or certification is required. In the event that a first Office Action on the merits has been issued, please consider this IDS under 37 C.F.R. § 1.97(c) and see the certification under 37 C.F.R. § 1.97(e) below, or, if no certification has been made, charge our deposit account a fee in the amount of \$230.00 as required by 37 C.F.R. § 1.17(p).

V. THIS IDS IS BEING FILED UNDER 37 C.F.R. § 1.97(c):
(check one box)

_____ before the mailing date of a Final Office Action under 37 C.F.R. § 1.113 (See 37 C.F.R. § 1.97(c) (1)) or before the mailing date of a Notice of Allowance under 37 C.F.R. § 1.311 (See 37 C.F.R. § 1.97(c) (2)).

a. _____ No certification; therefore, a fee in the amount of \$230.00 is required by 37 C.F.R. . § 1.17(p).

or

b. X See the certification below. No fee is required.

VI. CERTIFICATION UNDER 37 C.F.R. § 1.97(e) (check only one box)

The undersigned hereby certifies that

a. X each item of information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application not more than three months prior to the filing of this IDS; or

b. _____ no item of information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application or, to the best of my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this statement.

c. _____ Some of the items of information were cited in a communication from a foreign Patent Office. As to this information, the undersigned certifies that each item of information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application not more than three months prior to the filing of this IDS. As to the remaining information, the undersigned hereby certifies that no item of this remaining information contained in the IDS was cited in a communication from a foreign Patent Office in a counterpart foreign application or, to the best of my knowledge after making reasonable inquiry, was known to any individual designated in 37 C.F.R. § 1.56(c) more than three months prior to the filing of this statement.

VII. FEE PAYMENT (check one)

_____ Enclosed please find a check in the amount o \$230.00 for the above-indicated fee.

_____ Please charge Deposit Account No. 04-1105 in the amount of \$230.00 for the above-indicated fee.

X No fee is required.

If the Examiner has any questions concerning this IDS, he/she is requested to contact the undersigned. If it is determined that this IDS has been filed under the wrong rule, the PTO is requested to consider this IDS under the proper rule, with a petition if necessary, and charge the appropriate fee to Deposit Account No. 04-1105.

Respectfully submitted,



Date: February 26 2002

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